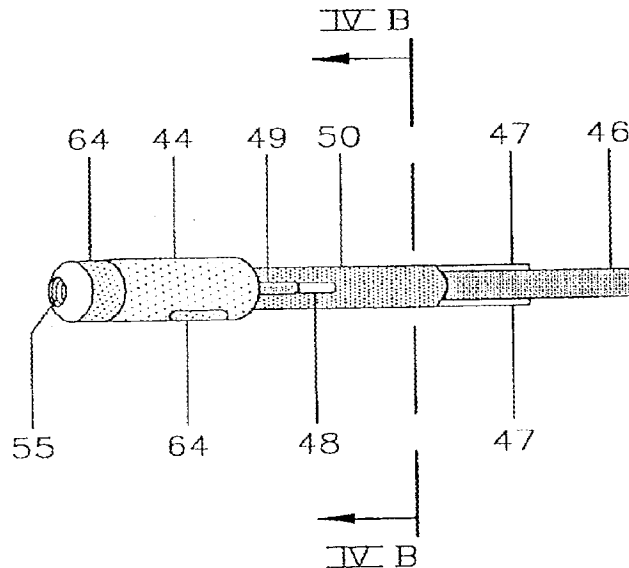


REMARKS

Claims 23-40 are allowed.

Claims 1, 2, 10, 11, 16, 22 and 41 are rejected as being anticipated by Accisano, III (US 5,571,085). Applicants respectfully traverse.

In applying the claims to Accisano, the Examiner relies upon Fig. 4:



The Examiner characterizes the structure as having a manipulator wire, which is identified by the Examiner as item 47. Applicants argued that, as described in col. 9, lines 28-34, item 47 is a support member and not a manipulator wire:

A pair of support members **47** are disposed along the outer surface of the fluid transport tube **46** along the portion of its length in the catheter's distal tip portion **54**. In the embodiment shown in FIGS. 4 and 5, the support members are straight, generally cylindrical elongated wires or shims **47** and are disposed radially and symmetrically opposite one another along the fluid transport tube **46**. As discussed in

The Examiner's response is that member 47 is described as an elongated wire and says nothing else. The point is that member 47, despite being a wire, is

serving as a shim. Member 47 is not serving as a manipulator wire to adjust deflection of the shaft. As Applicants also argued, as shown in Fig. 4B, deflection is caused by “pull cables” 48 and 52 (col. 10, lines 36-49):

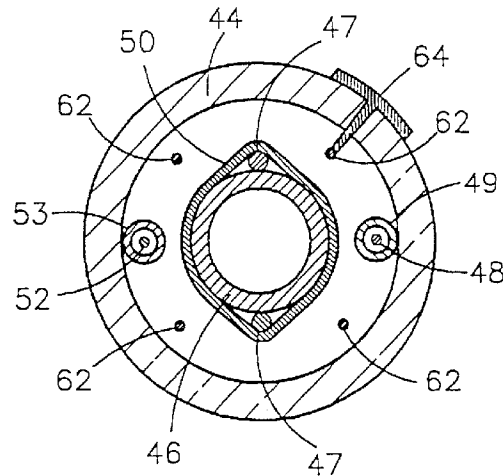


FIG. 4B

Thus, the Examiner has not rebutted Applicants' argument that absent in Accisano is a structural arrangement wherein a manipulator wire is positioned within an offset portion of a thru lumen formed by a shaft outer layer. The claimed structure is illustrated in Fig. 5:

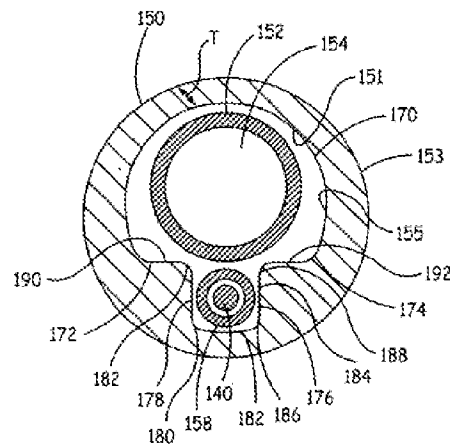


FIG. 5

As described in paragraph [0032], the offset second portion is 176, where manipulator wire 140 is carried. This structure and the claim recitations directed

to it are in contrast to Accisano, wherein the pull cables 48 and 52 extend through a central lumen of catheter 44. Clearly, the Examiner's application of the claim limitation to Accisano is incorrect and the Examiner's purported response to Applicants' arguments is non-responsive.

The Examiner has further responded that the bonding sleeve 50 is not used in the rejection and is merely used as a first lumen portion. However, the rejection clearly states otherwise, see paragraph 2 at page 2:

The device also includes a manipulator wire (47) that extends through the shaft and a thru lumen tubing (46) having a thru lumen. In Figure 4B, the outer layer of the shaft forms a single shaft lumen having a first lumen portion (shown at 50 in Figure 4B) positioned about the thru lumen tubing and a second lumen portion (shown below the first lumen portion in Figure 4B) having a first side wall, a second side wall, and a bottom side wall which position the manipulator wire within the second lumen portion.

Clearly, sleeve 50 is necessarily characterized as having the first and second portions of a lumen positioned around a thru lumen tubing 46 and also enclosing wire 47.

The Examiner's response modifies the rejection to characterize sleeve 50 as the first, second and bottom wall of the recited "second lumen portion" and defines the first lumen portion to be the space within layer 44 and the second lumen portion to be the space within sleeve 50. Clearly, this dual lumen structure does not meet the limitation that the outer shaft layer "forms a single shaft lumen" having the first and second lumen portions. The Examiner's response is flawed in that outer layer 44 does not form a *single shaft lumen* having the recited first and second lumen portions. As shown above, layer 44 forms a single shaft lumen that surrounds both sleeve 50 and fluid transport tube 46. Moreover, the lumen formed by layer 44 is circular and without any offset portion whatsoever.

Apparently recognizing the improper application of the claim limitations to Accisano, the Examiner puts forth the premise that no specific structure has been claimed for the first lumen portion of the single shaft lumen. To the contrary, the limitation clearly recites that the first lumen portion has a structure that is integral

with the second lumen portion in establishing the single shaft lumen formed by the shaft outer layer. As the Examiner admits on page 8, the claim limitation has been rewritten by being “interpreted” as “a first portion of the lumen positioned about the thru lumen tubing.” Such rewriting of the claim limitation is improper. Moreover, even such rewriting fails to observe the requirement that the first and second lumen portions must be “in fluid communication with the first lumen portion.” Under the Examiner’s application of the [rewritten] claim language to Accisano, that limitation is not observed or in anyway taken into account. Without question, the “second lumen portion” of bonding sleeve 50 is not in fluid communication with the “first lumen portion” of layer 44.

In an attempt to reach agreement, as well as to obviate the Examiner’s erroneous “interpretation” of the claim language, claim 1 has been amended to set forth expressly what was already inherently in the claim language as to a specific structural relationship between the first lumen portion and the offset second lumen portion of the single shaft lumen. Applicants submit that the amended recitation of claim 1 obviates the Examiner’s interpretations of the single shaft lumen, first lumen portion, and second lumen limitations. Furthermore, given proper interpretation that must now necessarily obtain, claim 1 cannot be applied to Accisano in the manner set forth in the stated anticipation rejections of claims 1, 2, 10, 11, 16, 22 and 41. Because the Examiner’s characterizations of Accisano in relation to the claim limitations are rendered inaccurate, the anticipation rejections, as a result, are necessarily without support and should be withdrawn.

Furthermore, contrary to the contention made in the office action that Accisano “discloses the invention substantially as claimed,” the structure disclosed in Accisano is nothing like the structure set forth in the claims. The obviousness rejections apply Accisano in the same fashion as applied in the anticipation rejection. Accordingly, each obviousness rejection based on any combination of the cited references that include and rely upon Accisano is without merit and should be withdrawn.

In view of the amendments to claim 1 and the above remarks, Applicants submit that all claims are patentable and the application is in condition for allowance. Applicants request issuance of a notice of allowance.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

December 18, 2009
Date

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